



LICENSING ACT 2003 – GUIDANCE FACT SHEET

LATE NIGHT REFRESHMENT

Under the Licensing Act 2003 the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment will all be carried on within one authorisation. The licensing authority will be North West Leicestershire District Council.

For the purposes of the Act, the provision of late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11.00pm and 5.00am or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access. This means it will include take-aways, fast food outlets and mobile catering vehicles. Premises that provide late night refreshment will need to hold a premises licence once the Act comes into effect.

The Government feels that it is necessary to protect local residents because premises, which serve late night refreshment, can be used by customers who may have been drinking at other premises earlier in the evening, thereby creating the potential for disorder on and near the premises. Also, because large numbers of customers may gather at places serving late night refreshments, there is a potential for nuisance and disturbance for local residents. The regulation of late night refreshment will tackle these issues and allow residents and other interested parties and responsible authorities to make representations about new, and seek reviews of existing licences where they are concerned that the licensing objectives below will be or have been affected.

Applying for a new premises licence for the provision of late night refreshment

Under the current licensing system, premises that provide hot food and drink refreshment between 11.00pm and 5.00am for consumption off the premises eg late night takeaway and hot dog vans do not need to be licensed for this activity. (hot dog vans may hold a street trading licence and this will continue to be required). From the 2nd appointed day (November 2005) they will need to hold a premises licence if they wish to continue to provide late night refreshment as defined by the Act.

Requirements for a new application:

- Completed application form
- Plans of premises in specified form
- Fee
- Operating schedule
- Copies of application form to be sent to responsible authorities
- Advertisement for benefit of interested parties

The Council must grant the licence unless representations are raised by interested parties or responsible authorities against the proposals, in which case the Council must hold a hearing to determine the application.

Representations can be made by any responsible authority or interested party and must be in relation to the licensing objectives.

What is an operating schedule?

An operating schedule is a document that includes a statement of the following matters:-

- The relevant licensable activities.
- The times during which it is proposed that the relevant licensable activities are to take place.
- Any other times during which it is proposed that the premises are to be open to the public.
- Where the applicant wishes the licence to have effect for a limited period, that period
- Where the relevant licensable activities include the supply of alcohol then a designated premises supervisor must be named.
- Where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both
- The steps which it is proposed to take to promote the licensing objectives which are
 - The prevention of crime and disorder
 - Public safety
 - The protection of children from harm
 - The prevention of public nuisance

What is a designated premises supervisor?

A designated premises supervisor is required if the premises licence includes the sale of alcohol. He/she must hold a personal licence and is the person specified on the premises licence who is responsible for authorising the supply of alcohol. This person must be readily identifiable and will normally be given day to day responsibility for running the premises.

Applying for a conversion of existing licences to a premises licence during the transition period – grandfather rights

Premises which provide hot food and drink on the premises between 11.00pm and 5.00am may currently hold a late night refreshment licence issued by the Council or a supper licence or special hours certificate issued by the Magistrates' Court. If the applicant wishes to continue to run their business the same as was authorised under these licences then he/she may apply for a conversion to a premises licence under grandfather rights. The application must be made to the Council during the 1st 6 months of the transition period.

Requirements for an application are:

- Completed application form
- Plans of premises in specified form
- Consent of original licence holder
- Fee
- Copy of application to be sent to police

Only the police can make a representation against a conversion under grandfather rights and only on grounds of crime and disorder. If there is no representation by the police the licence will be granted. If there is a representation by the police a hearing will be held by the Council's Licensing Sub Committee.

Applying for a variation to existing licences to a premises licence during the transition period – grandfather rights with variation

An applicant may vary the specifications on current licences eg late night refreshment, supper licence or special hours certificate by applying for a variation during the transition period. The requirements for this are similar as for a new application. The Council will however only accept representations from interested parties and responsible authorities on matters that are subject to the variation. The police may make representation on the whole application. The requirements for an application for grandfather rights with variations are the same as for a new application (see above).

Exemptions

The following are exempt from requiring a premises licence for the provision of late night refreshment:

- Hot drink consisting of, or containing alcohol (although a premises licence under the Act will be required for the supply of alcohol).
- Hot drink distributed by means of a vending machine where the payment for the hot drink is inserted into the machine by a member of the public, and the hot drink is supplied directly by the machine to the member of the public.
- Hot food or hot drink supplied free of charge, where there is also no charge for admission to any premises, or for some other item to obtain the hot food or hot drink.
- Hot food or hot drink supplied by a registered charity or by a person authorised by a registered charity (ie a charity which is registered under the Charities Act 1993 or a charity not required by the Charities Act 1993 to be registered).
- Hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time.
- Hot food or hot drink supplied to members and guests of recognised clubs that hold a club certificate.
- Hot food or hot drink supplied to guests (and their guests) of hotels or similar premises that supply accommodation as their main purpose.
- Refreshment made available to employees of a particular employer between 11.00pm and 5.00am whose shift patterns require them to be present at the workplace between 11.00pm and 5.00am.

If a supermarket or other business premises (ie garage) is heating food or drink for customers for consumption on or off the premises between 11.00pm and 5.00am or provides facilities for customers that enable food or drink to be heated above the ambient temperature a late night refreshment licence will be required. However, if the business is selling only cold food and drink and not providing facilities to enable the food or drink to be heated on the premises, then a licence authorising the provision of late night refreshment will not be required.

Licensing Section contact details:

Personal visit to: North West Leicestershire District Council Council Offices Coalville Leics LE67 3FJ An appointment system is in operation. Please make an appointment prior to attending	Writing to us at: The Licensing Section North West Leicestershire District Council Council Offices Coalville Leics LE67 3FJ
Email: licensing@nwleicestershire.gov.uk	Phone: 01530 454775/844/838/528
Internet: www.nwleics.gov.uk	Fax: 01530 454506